

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BOBBY EZELL, #R65015,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 21-cv-1434-SMY
	)	
AUSTIN NEIBEL,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

**YANDLE, District Judge:**

This matter is before the Court on the Report and Recommendation (“Report”) of United States Magistrate Judge Reona J. Daly (Doc. 87), recommending the denial of the motion for summary judgment for failure to exhaust administrative remedies filed by Defendant Austin Neibel (Doc. 73). No objections have been filed to the Report. For the following reasons, Judge Daly’s Report and Recommendation is **ADOPTED**.

When neither timely nor specific objections to a Report and Recommendation are made, the Court need not conduct a *de novo* review of the Report. *See Thomas v. Arn*, 474 U.S. 140 (1985). Instead, the Court reviews the Report for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Here, Judge Daly thoroughly discussed and supported her conclusions that Plaintiff exhausted his administrative remedies against Defendant prior to filing this lawsuit. The Court finds no clear error in Judge Daly’s findings, analysis and conclusions, and adopts her Report and Recommendation in its entirety.

Accordingly, Defendant’s motion for summary judgment for failure to exhaust

administrative remedies (Doc. 73) is **DENIED**. Plaintiff's claims Eighth Amendment claim against Defendant shall proceed.

**IT IS SO ORDERED.**

**DATED: September 6, 2024**

The image shows a handwritten signature in black ink, which appears to read "Staci M. Yandle". The signature is written over a circular official seal. The seal features an eagle with a shield, holding an olive branch and arrows, with a constellation of stars above its head. The words "UNITED STATES DISTRICT COURT" and "SOUTHERN DISTRICT OF CALIFORNIA" are inscribed around the perimeter of the seal.

**STACI M. YANDLE**  
**United States District Judge**